

### **REMARKS**

Claims 1-3, 5-26, 38, 40-44 and 46-282 were pending in the application. Claims 16-26, 56-82, 100-126, 129, 137-163, 182-210, 218-246, and 254-282 have been cancelled. Claims 167-171 and 174 were amended to clarify the invention. Therefore, claims 1-3, 5-15, 38, 40-44, 46-55, 83-99, 127, 128, 130-136, 164-181, 211-217, and 247-253 are currently pending. No new matter has been added.

Amendments to and/or cancellation of the claims should in no way be construed as an acquiescence to any of the Examiner's rejections. Amendments to and/or cancellation of the claims are being made solely to expedite prosecution of the above-identified application. Applicants reserve the option to further prosecute the same or similar claims in the present or another patent application. The amendments to the claims are not related to any issues of patentability.

#### ***Telephonic Interview***

Applicants thank Examiner Qazi for the telephonic interview with Elizabeth Hanley and Cynthia Soroos, Applicants' attorneys, on June 24, 2008. During the interview, the outstanding rejections and the amendments to the claims, as presented herein, were discussed.

#### ***Provisional Rejection of Claims under 1-3, 5-26, 38, 44, 46-282 under Judicially Created Doctrine of Obviousness Type Double Patenting***

Claims 1-3, 5-26, 38, 44, and 282 have been provisionally rejected under the judicially created doctrine of non-statutory obviousness type double patenting over 11/330,700; 10/692,764; 10/737,361; 10/877,928; 10/921,580; 10/943,571; 10/996,119; 11/039,230; 11/348,608; 11/490,867; 11/810,336; and 11/803,854.

Applicants note that U.S.S.N. 10/737,361 has issued as U.S. Patent No. 7,326,696 and, as noted above, a terminal disclaimer has been filed and approved for this patent. Therefore, Applicants respectfully request that this provisional double patenting rejection over U.S.S.N. 11/737,361 be withdrawn.

With respect to U.S.S.N. 11/039,230, Applicants note that the claims in this application are limited to compounds with aromatic A-rings. Applicants note that compounds with aromatic A-rings are not claimed in the instant application. Therefore, Applicants respectfully request that this provisional double patenting rejection over U.S.S.N. 11/039,230 be withdrawn.

With respect to U.S.S.N. 11/330,700; 10/692,764; 10/877,928; 10/921,580; 10/943,571; 10/996,119; 11/348,608; 11/490,867; 11/810,336; and 11/803,854, Applicants note that the § 1504.6 of the MPEP states that “if a provisional double patenting rejection (of any type) is the only rejection remaining in two conflicting applications, the examiner should withdraw that rejection in one of the applications (e.g., the application with the earlier filing date) and permit the application to issue as a patent.”

Applicants note that the present application has an earlier priority date than each of these applications. Applicants, therefore, respectfully request that this rejection be withdrawn and the instant application be allowed to issue as a patent. This request should be in no way construed as an acquiescence to the Examiner’s provisional rejections.

***Rejection of Claims 15, 16, 48-55, and 62-82 under 35 U.S.C. § 112, second paragraph***

Claims 15, 16, 48-55 and 62-82 are rejected under 35 U.S.C. § 112, second paragraph as being “improperly dependent on claim 1.” Applicants note that claims 16 and 62-82 have been cancelled, thus rendering the rejection of these claims moot. According to the Examiner, “there is no carbon link at 7-position.”

With regard to claims 15, and 48-55, Applicants respectfully note that these claims do not require a carbon link at the 7-position. Each of the compounds claimed in claims 15 and 49-55 have a dimethyl amino group at the 7-position. Claim 48 is directed to pharmaceutical compositions comprising the compounds of claim 1 and does include any additional limitations at the 7-position.

Therefore, Applicants respectfully request that this rejection of the claims 15, and 48-55 under 35 U.S.C. § 112, second paragraph be withdrawn.

**SUMMARY**

It is respectfully submitted that this application is in condition for allowance. If there are any remaining issues or the Examiner believes that a telephone conference with Applicants' Attorney would be helpful in expediting prosecution of this application, the Examiner is invited to call the undersigned at (617) 227-7400.

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Respectfully submitted,

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